

In the High Court of Uttaranchal at Nainital.

Criminal Revision No. 20/2004

Rajendra Prasad Sethi

S/o Late Harbansh Lal Sethi

R/o 1963, Prempura

Railway Road Hapur,

District Ghaziabad Revisionist.

Vs.

1- Smt. Sushma Sethi

W/o Rajendra Prasad Sethi

Presently residing at B-51

Raj Nagar Colony, Jwalapur

District Haridwar

2- The Judge, Family Court Haridwar ...Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri Raveendra Singh Bisht learned counsel for the revisionist and Ms. Jyotsna learned counsel for respondent no.1.

2- This is a revision under section 19(4) of the Family Courts Act, 1984 against the impugned order dated 18-12-2003 passed by the Principal Judge, Family Court, Haridwar granting interim maintenance at the rate of Rs. 2000/- per month to the respondent-wife Smt. Sushma Sethi.

3- It is not dispute that the wife is residing separately for the last one year. There is nothing on record to indicate that she has any source of income and therefore she being unable to maintain herself is entitled to get interim maintenance till the disposal of the petition under section 125 of the Code of Criminal Procedure on merit. The learned Principal Judge, Family Court has granted the interim maintenance at the above rate which according to the learned counsel for the revisionist is excessive. It is submitted that the revisionist husband is doing agency work with a bank and he earns about 20,000/- per year from his engagement. On the other hand the contention of the wife was that the revisionist is also carrying a shop

of generators and has sufficient income but is not providing her adequate maintenance despite the requests and demands. On behalf of the revisionist a certificate of commission paid by the Syndicate Bank was filed. It shows that a sum of Rs. 19,876/- was paid as commission in a financial year. This certificate also does not indicate that the revisionist was a full time commission agent. He was free to engage himself in any activity and occupation and considering this at this stage it is difficult to disbelieve the claim of the respondent-wife that the revisionist is not carrying the agency work on full time basis and that he is also engaged in his above generator set business. Considering this the amount of Rs. 2000/- as interim maintenance does not appear to be exorbitant.

4- For the aforesaid reasons the revision lack merit and is dismissed.

5- The learned Principal Judge, Family Court shall not be guided by the observations made in the order while deciding the petition under section 125 of the Code of Criminal Procedure on merit.

(Irshad Hussain, J.)

Dated: 17-5-2004

ISB